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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 BRIAN KEITH TERWILLEGGER,

12 Plaintiff,

13 v.

14 STATE OF WASHINGTON, et al.,

15 Defendants.

CASE NO. 17-5360 RJB

ORDER ADOPTING REPORT AND
RECOMMENDATION

16 THIS MATTER comes before the Court on the Report and Recommendation of U.S.
17 Magistrate Judge David W. Christel. Dkt. 95. The Court has considered the Report and
18 Recommendation, objections, and the remaining record.

19 The Plaintiff filed this case on May 15, 2017, alleging that the Defendants violated his
20 federal constitutional rights. Dkt. 1. On October 30, 2018, the Report and Recommendation was
21 filed, recommending that the Defendants' Motion for Summary Judgment be granted and the
22 case dismissed. Dkt. 95. Plaintiff filed objections (Dkt. 96) and the Defendants responded to the
23 objections (Dkt. 97).

1 The Report and Recommendation (Dkt. 95) should be adopted and the case dismissed.
2 The Plaintiff's objections do not provide a basis to reject the Report and Recommendation. The
3 Plaintiff generally asserts that the case is based on two civil claims he was unable to bring in
4 time which he alleges were not frivolous. Dkt. 96. The Plaintiff fails to point to any evidence
5 support this assertion. The Plaintiff maintains that policy 508 was the moving force behind the
6 violations. Dkt. 96. Further, the Plaintiff asserts that he suffered constitutional violations of "no
7 outdoor activity for 10 weeks," and denial of basic medical and physical therapy. *Id.* He claims
8 that he experienced "ADA violations by not [being] allow[ed] . . . access [to] handrails in the
9 shower," and a campaign of harassment. *Id.* Again, Plaintiff fails to point to any evidence
10 supporting his assertions. He claims that this case is "90% about [his] access to civil litigation
11 via access to the courts." *Id.* The Plaintiff states that he "objects to the taking of his legal
12 papers." *Id.*

13 As stated in the Report and Recommendation, the Plaintiff fails to demonstrate that any
14 of the Defendants took actions which prejudiced him or otherwise blocked him from accessing
15 the Courts in contravention of the Fifth Amendment or other provision of the Constitution.
16 Further, he makes no showing that the "Policy 508" was the moving force behind any such
17 violation.

18 The Plaintiff's remaining objections, including those relating to his alleged ADA
19 violation, harassment, the taking of his legal documents are addressed in the Report and
20 Recommendation. They do not provide a basis to decline to adopt it.

21 The Plaintiff makes reference to wanting to file an appeal in his objections. Dkt. 96. He
22 also requests that an attorney be appointed for him on appeal. *Id.*

1 The Clerk of the Court should be directed to send a Notice of Appeal form to the
2 Plaintiff. To the extent that the Plaintiff moves for appointment of an attorney on appeal, that
3 motion should be denied without prejudice, to be considered, if appropriate by the Court of
4 Appeals if Plaintiff files an appeal. No appeal is currently pending.

5 It is **ORDERED** that:

- 6 • The Report and Recommendation (Dkt. 95) **IS ADOPTED**;
- 7 • To the extent that the Plaintiff moves for appointment of an attorney on appeal,
8 that motion **IS DENIED WITHOUT PREJUDICE**;
- 9 • This case **IS DISMISSED**.

10 The Clerk is directed to send the Plaintiff a Notice of Appeal form, and uncertified copies
11 of this Order to all counsel of record and to any party appearing *pro se* at said party's last known
12 address.

13 Dated this 3rd day of December, 2018.

14 

15 ROBERT J. BRYAN
16 United States District Judge